

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
CASE NO. 1:22-cv-24023-SCOLA/GOODMAN**

KENNETH C. GRIFFIN,

Plaintiff,

v.

INTERNAL REVENUE SERVICE and U.S.  
DEPARTMENT OF THE TREASURY,

Defendants.

**JOINT NOTICE OF HEARING (VIA ZOOM)**

PLEASE TAKE NOTICE that, in accordance with the Court's Post-Discovery Hearing Administrative Order (ECF No. 63, the "Discovery Order"), a hearing on discovery matters will be held before Magistrate Judge Jonathan Goodman on Friday, December 29, 2023 at 3:30 PM via Zoom. (*See* ECF 62, ECF 63 at 3.) The discovery matters to be heard include:

1. **Whether the Court directed the Government to run search terms with Mr. Littlejohn's name across the investigative files and either produce documents or provide a privilege log by December 11, 2023? (*Compare* Nov. 28, 2023 Hr'g Tr. at 43:13-19 *with* ECF 63 at 4.)**
2. **Whether the Court should impose a deadline of January 5, 2024 for the Government to assert the investigative privilege over materials contained in the investigative files? (ECF 63 at 3; ECF 70 at 1; ECF 77 at 1.)**

3. **Whether 26 U.S.C. §§ 6103(h)(2) and (h)(4) permit the disclosure of the United States’ investigative files concerning Charles Littlejohn’s potential liability, including liability under the Internal Revenue Code, to Defendants’ counsel and Plaintiff in this case?**
4. **What was or is the deadline for the Government to respond to Mr. Griffin’s Second Set of Discovery, served on November 22, 2023?**
5. **Whether the Government is required to provide responses or corrected responses to the following Interrogatories:**
  - Are You aware of any indicia, warning, audit, notice, events, Document, Communication, thing, or other variance thereof concerning a: (1) data security risk; (2) data security breach; (3) unauthorized Inspection; (4) unauthorized Disclosure; and/or (5) potential violation of 26 U.S.C. § 6103 related to Mr. Griffin’s Return information concerning any tax year between 2010 through 2022? (Interrogatory No. 10). The United States objected to the interrogatory and then wrote “Subject to and without waiving any of the objections above, no.”
  - Describe all Documents and Communications between You and ProPublica concerning Mr. Griffin’s Return Information for federal income tax years between 2010 through 2018. (Interrogatory No. 6). The United States timely objected to this interrogatory and did not provide an answer.

6. **Whether the Government must admit or specifically deny and, if not specifically denied, state in detail why the Government cannot truthfully admit or deny the following Requests for Admission:**
  - Admit that You did not request that ProPublica return and/or destroy Mr. Griffin's Return Information within ProPublica's possession, custody, or control (RFA No. 42); and
  - Admit that as recently as September 2022, the IRS could not ensure that it is correcting and managing its information security weaknesses thereby exposing its systems to increased risk that nefarious actors will exploit the deficiencies to gain unauthorized access to information resources, as alleged in paragraph 27 of the Complaint (RFA No. 45).
7. **Whether the Government is required to supplement its initial disclosures?**
8. **Whether the Court should impose a deadline of January 29, 2024 for the completion of all document production in response to Plaintiff's First and Second Sets of Requests for Production, with the Government's productions to occur on a rolling weekly basis on January 8, January 15, and January 22, 2024?**
9. **By when is the Government required to supplement its responses to Plaintiff's First Set of Requests for Admission and Interrogatories?**
10. **Whether either Party may move for entry of a protective order after January 10, 2024 if the Parties cannot jointly agree to the terms of such an order before that date?**

**11. Whether the Court should schedule another discovery hearing concerning the status of the Government's responses to Plaintiff's First and Second Sets of Discovery?**

Copies of the relevant source documents were emailed to Chambers consistent with the procedures set forth in Magistrate Judge Goodman's Discovery Procedures Order. *See* ECF No. 16 at 4.

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(3)**

Undersigned counsel conferred by videoconference on December 22, 2023 in a good-faith effort to resolve by agreement the issues raised herein, but were unable to reach any resolution of the issues.

Dated: December 27, 2023

Respectfully submitted,

***For Plaintiff***

By: /s/ Jason D. Sternberg

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on this 27th day of December, 2023, I filed a copy of the foregoing document with the Clerk of Court using the CM/ECF electronic filing system, which will send notification to all counsel of record.

By: /s/ Jason D. Sternberg

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